

**COMMENTS OF COLORADO'S REDISTRICTING COMMISSIONS**  
**RE: LESSONS LEARNED – 17 March 2022**

Most importantly, the two Colorado redistricting commissions created congressional and legislative maps that were approved by the Colorado Supreme Court. They have been recognized as improvements (fairer) over the 2011 maps. In addition, the commission prevented efforts by the legislature to interfere with the process.

The commissions had excellent support from the non-partisan staff.

**Major points:**

- Colorado is the only state with separate legislative and congressional commissions, created by state constitutional amendments Y and Z. The institutional knowledge of those participants served both commissions well during the public hearing process.
- The amount of effort required by the commissioners was overwhelming and most commissioners felt in hindsight that they didn't have a good idea of what they were getting into.
  - The state legislature's only redistricting responsibility was to allocate funding for both commissions. To that point, both commissions guarded their independence vehemently.
  - More money should be allocated for future commissions.
- Competitiveness was constitutionally the last criteria to be considered by both commissions. This came as a surprise to many.
  - Congressional hierarchy of redistricting requirements:
    - Population equality (+/- 1 person for congressional; 5% maximum divergence for legislative) in contiguous districts
    - VRA compliance
    - Whole communities of interest and whole political subdivisions
    - Compactness
    - Competitiveness.
- Unaffiliated voters had equal representation on both commissions; 43% of Colorado's registered voters are unaffiliated.
- Commissions were not seated until February/March 2021; maps were approved by end of September/mid-October.
- Communities of interest ("COIs") played an overly important role in the drawing of the maps. There is no clear definition of COIs is murky, allowing a COI to become whatever you wanted. As a result, it was felt that COIs could be used as a political play. Recommend that any COI should be considered only after a written description is provided.
- Need upfront and ongoing recognition that redistricting is an inherently political process and gets increasingly so as the end of the process approaches.
- Prisoner reallocation was by far the most contentious issue on both commissions. The legislative commission achieved a super majority to move forward prisoner reallocation whereas the congressional commission did not. Major points of debate were whether it was appropriate to adjust the U.S. Census data in any way vs. qualitative arguments.

- Both commissions had a similar committee structure, though the role of the committees differed by commission:
  - Legal – Their purpose was to hire the legal counsel for the commission and the VRA attorney.
  - Data and Mapping – The congressional commission established a formal process to review and evaluate 170 maps submitted by the public, a process that would have benefitted from earlier software training. The legislative commission developed the partisan index, which was also adopted by the congressional commission. The election data provided by the Secretary of State was not satisfactory. Moving forward the data analysis should be prepared in advance by the nonpartisan staff.
  - Communications - The communications committees identified where to hold the public hearings. The legislative committee was responsible for summarizing the content of the public hearings. This was done very poorly on the legislative side, in part because there were no established COIs. On the congressional side, over 5000 public comments were received; these were summarized weekly by the committee members, to the benefit of the rest of the congressional commissioners.
- With respect to commissioner training, both commissions tried too hard to find speakers who were “neutral.” Commissioners would have learned more by hearing from partisans on both sides of the political divide.
  - The NCSL redistricting conference in Salt Lake City was well-timed and a great opportunity to interact with other redistricting commissioners from around the country.
- There were 32 joint (legislative and congressional) public hearings and a handful of additional congressional hearings. After the first round of maps were released three virtual hearings were held. Colorado’s uneven population density made most of the public hearings in the metro Denver area, which made it difficult for Commissioners not in that area to attend as many public hearings in person as they might have wished.
  - The purpose of the meetings was to get a feel for what was happening in the community. Most meetings included lobbyists, scripted presentations, and genuine feedback from the local participants.
    - The level of interest in the redistricting process was overall very disappointing.
  - Possibilities for looking ahead include:
    - How to deal with political operatives and lobbyists; need increased enforcement of lobbyist registration and transparency.
    - Consider alternate methods for collecting information from locals.
    - Identify COIs from more objective sources.
    - Manage the process of asking questions by commissioners.
- Draw your own maps; do not hire an outside consultant to draw the maps. A good map should have a rational, logical story behind it. When commissioners draw their own maps, this provides a clear path to building a coalition with other commissioners to ensure areas of priority for each commissioner are included. In addition, this allows for a clear understanding

of the process to include all constitutional requirements. In the case of Colorado's legislative redistricting, the maps drawn and analyzed by commissioners garnered the most support.

- Last-minute changes to maps tend to undermine some of the underlying story.
- The legislative and congressional commissions interacted well, with the congressional commission following the lead of the legislative commission with respect to defining a metric for competitiveness. Eight statewide races were included in the metric, with outlier races excluded.
- Colorado Supreme Court protected the independence of both commissions and stated that the only basis for not approving the commissions' final maps would be if the commissions didn't meet the constitutional criteria or if the commissions had abused their discretion.
- Selection process needs to have the same emphasis on geographic diversity as it does on other aspects such as race, age, and district representation. This is particularly true given the widely disparate population distribution and geographic size of Colorado.
  - This is complicated by different regions of the state being defined differently for different purposes.

## **BACKGROUND MATERIAL:**

### **Application and selection process**

The selection rules were implemented in the manner that they were described. They can be improved upon by:

- Better education and more rigorous criteria for applicants. This should include notice of time commitment, reimbursement, and job requirements. Applicants should have basic analytical and mapping skills (minimum of Dave's Redistricting).
- The commission had four Rs, four Ds, and four Unaffiliates. This worked.
- Each commission had six commissioners selected at random (bingo balls), with the remaining six selected based on recommendations by three retired judges, and the political parties. Geography was considered only in the form of which Congressional District an applicant resided. Every congressional district had to be represented by at least one person. On two occasions two congressional districts were represented by people who lived blocks away from each other, indicating that geography should be given greater consideration in the future. This process may have to be changed because Colorado added a new congressional district.

The selection of commission officers was completed in a fair manner.

### **Training from staff and outside organizations**

The amount of information we needed to know at the beginning was overwhelming. The training should be driven by the purpose of the commission – draw the maps and educate commissioners about issues and ideologies related to drawing the maps.

### **Commission meetings**

Most commission meetings were by Zoom, which was a mixed blessing. Most meetings lasted three hours. Several lasted six or seven hours. In addition to regular meetings, there were committee meetings.

## **Drawing the maps**

The map drawing process allowed for significant feedback from commissioners and the public. The nonpartisan staff drew Staff Map I, Staff Map II, and Staff Map III for each commission and each commission provided input after the presentation of each of its map. That input could include changes to part of a map or proposing a new map. After Staff Map III, each commission voted on the proposed maps. If a super majority of eight commissioners (including two unaffiliated commissioners) was not achieved to approve a final map, then Staff Map III was by default the map submitted to the Colorado Supreme Court.

Comments about the process follow:

- The commission must understand how election mapping programs work.
- The nonpartisan staff and commission operate under slightly different rules for drawing maps.
- There is a story behind good maps that is destroyed when there are too many last-minute changes.
- Commissioners should not be allowed to present a map prepared by a lobbyist or outside group without disclosing the map's source.

## **Other Issues**

There were other pertinent issues:

- Prior to 2031 the commissions should put together a way to better understand the role of water in the redistricting process.
- Guidelines were established for lobbyists that were not clear, nor were they appropriately enforced.
- The commissions tried to adhere to the transparency guidelines, but at times there were issues.
- How do you deal with political operatives on the commission?
- How do you deal with situations when outside political operatives appear to be in communication with commission members during a meeting?
- What are the benefits of having an outside firm draw the maps?
- How do you ensure that a map is competitive?
- What technology will be in place in 2031 to draw or analyze maps, such as Ensemble Analysis?

Commissioners in attendance:

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